

MARK G. JONES

IBLA 80-588

Decided September 5, 1980

Appeal from decision of the Alaska State Office, Bureau of Land Management, declaring mining claims abandoned and void. AA 37550 AA 37555.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim--Mining Claims: Recordation

The owner of an unpatented mining claim on Federal land located prior to Oct. 21, 1976, had to file in the proper BLM office on or before Oct. 22, 1979, or on or before Dec. 30 of each calendar year following the calendar year of such recordation, whichever date is earlier, evidence of annual assessment work performed during the preceding assessment year, or a notice of intention to hold the mining claim.

2. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim

Failure to comply with the regulations governing assessment work or notice of intention to hold mining claims must result in a conclusive finding that the mining claim has been abandoned and is void.

APPEARANCES: Mark G. Jones, pro se.

OPINION BY ADMINISTRATIVE FISHMAN

This appeal is from a decision dated March 20, 1980, by the Alaska State Office, Bureau of Land Management (BLM), declaring the Eldorado Nos. 1 through 6 lode mining claims, located in 1973, and recorded with BLM October 22, 1979, abandoned and void for failure to timely file an affidavit of assessment work or a notice of intention to hold the claims as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the pertinent regulation, 43 CFR 3833.2 1(a), which provides:

(a) The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, whichever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

The record contains two affidavits of annual labor for the recording year ending on September 1, 1978. One of these documents was notarized in 1978, the other in 1979. Both documents were filed with BLM in April 1980. Appellant states on appeal that he made a mistake in entering the date, 1978.

[1] The regulation above cited requires that owners of mining claims on Federal lands located prior to October 21, 1976, shall have filed in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recordation, whichever is earlier, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim. This requirement is mandatory. The fact that appellant may have made a mistake in dating his affidavit of annual labor is not controlling. The dispositive circumstance is that the document was not filed with BLM on or before the deadline.

[2] Failure to comply with the regulations governing recordation of information relating to unpatented mining claims must result in a conclusive finding that the claim has been abandoned. 43 U.S.C. § 1744(c) (1976); 43 CFR 3833.4(a); G. H. Monk, 47 IBLA 213 (1980); Walter R. Paul, 43 IBLA 119 (1979). The Eldorado mining claims must be deemed conclusively to be abandoned and void for failure to submit on or before October 22, 1979, evidence of assessment work performed, or a notice of intention to hold the claims.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Frederick Fishman
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Joan B. Thompson
Administrative Judge

